

## **REMARKS**

### **Introduction**

Claims 1-3, 7-17 and 20-24 are pending. Claims 1, 16 and 24 have been amended. Claims 1, 16 and 24 are in independent form. Entry of this Amendment, and reconsideration of the above-identified application in view of the following remarks, is respectfully requested.

### **Rejections under 35 U.S.C. § 102(e)**

Claims 1-3, 7-17 and 20-24 stand rejected under 35 U.S.C. 102(e) as unpatentable over U.S. Patent Publication No. 2002/0052795 (*Dines*).

Amended Claim 1 of the present application recites, *inter alia*, a computer-implemented method for offering an average pricing contract for a commodity. The method includes "specifying a commodity;" "specifying a quantity of the commodity;" "specifying a pricing period;" "specifying days of the week during the pricing period;" wherein specifying days of the week includes "specifying one or more of Monday, Tuesday, Wednesday, Thursday and Friday" and "wherein specifying days of the week is separate from specifying the pricing period," "specifying pricing points for each of the specified days of the week for pricing the commodity;" and offering to sell the quantity of the commodity at a price to be determined based on current cash market prices for the commodity at the pricing points; "wherein the pricing points are each specified at one of a specific time, an opening trade, and a closing trade."

As described in the present application as published (*see* 2004/0230493) at, for example, FIG. 5 and paragraph [0020], the computer implemented method facilitates a seller particularly "specifying a pricing period" by selecting a start date (501), and end date (502), "specifying days of the week during the pricing period" by selecting specific day check boxes

(503). Importantly, the specification of days of the week specifically includes selecting one or more of Monday, Tuesday, Wednesday, Thursday and Friday. In addition, the selection of specific days of the week is separate from the specifying of the pricing period. The present application also describes facilitating the particular selection of pricing points where "the pricing points are each specified at one of a specific time, an opening trade, and a closing trade" (504, 505).

Thus, the computer implemented method as recited by amended claim 1 provides a seller with specific control to determine a specific "pricing period," specific "days of the week during the pricing period" wherein the "pricing points are each specified at one of a specific time, an opening trade, and a closing trade." The days of the week specified include one or more of Monday, Tuesday, Wednesday, Thursday and Friday, and the selection of days of the week is separate and distinct from the specifying of a pricing period.

As understood by applicants, *Dines* does not teach, suggest or provide motivation for all of the steps recited by amended claim 1 of the present application. While *Dines* does describe determining an average price over several "observation points," *Dines* does not teach, suggest or provide motivation for at least providing specific control to determine a specific "pricing period," specific "days of the week during the pricing period" and wherein the "pricing points are each specified at one of a specific time, an opening trade, and a closing trade." Nor does *Dines* teach, suggest or provide motivation for at least the days of the week specified including one or more of Monday, Tuesday, Wednesday, Thursday and Friday, and the selection of days of the week is separate and distinct from the specifying of a pricing period.

In the Office Action, the Examiner points to *Dines*' description of the "observation points" as being "five specified days." (*Dines* at paragraph [0018]). The "five specified days" of *Dines*, however, is very different from the claimed "specifying a pricing

period; specifying days of the week during the pricing period, wherein specifying days of the week includes specifying one or more of Monday, Tuesday, Wednesday, Thursday and Friday," and wherein "specifying days of the week is separate from specifying the pricing period." *Dines* merely describes five specified days, which could, for example, be observation point dates, and not a pricing period, and separately, one or more "days of the week" during the pricing period.

Accordingly, applicants submit that *Dines* does not teach, suggest or provide motivation for the invention recited by amended claim 1 of the present application.

Independent claims 16 and 24, while different in form and scope than claim 1, each recite at least limitations similar to those discussed above with respect to the patentability of claim 1, and are thus patentable for at least the same reasons discussed with respect to the patentability of claim 1.

Each of claims 2, 3 and 7-15 depend from claim 1, and each of claims, 17 and 20-23 depend from claim 16, that have been shown to be patentable, and is likewise deemed to be patentable, for at least the reasons described above with respect to the patentability of amended claims 1 and 16.

Thus, applicants submit that each of the claims of the present application are patentable over *Dines*. Accordingly, withdrawal of the rejections to the claims is respectfully requested.

**Conclusion**

In view of the above remarks, reconsideration and allowance of the present application is respectfully requested. If any additional fee is deemed necessary, then the Commissioner is authorized to charge such fee to Deposit Account No. 50-1358. Applicants' undersigned attorney may be reached by telephone at (973) 597-2500. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

Date: 14 October 2007

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